



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

AUG 08 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Burton Halpern
Husmann Corporation
12999 St. Charles Rock Road
Bridgeton, Missouri 63044

Re: Modification of Corrective Action Order on Consent
Husmann Corporation
Docket No. VII-89-H-0018

Dear Mr. Halpern:

Enclosed please find a copy of the Modification of the Corrective Action Order on Consent that was filed with the Regional Hearing Clerk on today's date. Written notice of this fact is being provided in accordance with paragraph XIX of the Modification.

Please contact me at (913) 551-7227 with any questions.

Sincerely,

Leslie A. Humphrey

Leslie A. Humphrey
Associate Regional Counsel

cc: Mr. Timothy A. Vanderver, Jr. (with enclosure)
Patton, Boggs & Blow
2550 M Street, N.W.
Washington, D.C. 20037



R00058745
RCRA Records Center

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101



IN THE MATTER OF:)

HUSSMANN CORPORATION)

Respondent.)

Proceedings under Section 3008(h)
of the Resource Conservation and
Recovery Act of 1976, as amended,
42 U.S.C. § 6928(h).)

MODIFICATION OF
CORRECTIVE ACTION
ORDER ON CONSENT

Docket No. VII-89-H-0018

MODIFICATION

Hussmann Corporation (hereinafter Respondent) and the United States Environmental Protection Agency (EPA), Region VII, pursuant to Section XVI (Subsequent Modification) of the captioned Corrective Action Order on Consent, hereby mutually agree to and make the following modifications to the Corrective Action Order on Consent:

Order, Section I, Work To Be Performed, Paragraph 2, delete the last sentence and substitute in lieu thereof the following:

"Respondent has submitted to EPA a Revised Remedial Work Plan dated January 27, 1994, which has been approved by EPA and which is appended hereto as Attachment I. Respondent shall begin implementation of the Revised Remedial Work Plan within sixty (60) days of the effective date of this Modification and shall

continue to implement the Work Plan in accordance with the terms and schedules contained therein. Respondent shall submit the Site Characterization Report required by the Revised Remedial Work Plan in accordance with the schedule contained within the Work Plan.

In the event that the investigation and monitoring activities required under Phase I of the Revised Remedial Work Plan demonstrate that there exists on-site groundwater contamination that is not within the capture zone of the existing extraction system or that after four (4) quarterly sampling events there are any statistically significant increases in constituent concentrations in the perimeter wells installed pursuant to the Revised Remedial Workplan, then Respondent shall submit an addendum to the Revised Remedial Work Plan to EPA for review and approval to undertake the activities described in Phase II of the Revised Remedial Work Plan. For the purposes of this Order, 'on-site' shall mean within and extending to the boundaries of the facility property, as described in Section IV, Findings of Fact, Paragraph 2, of this Consent Order.

With the exception of monitoring wells located hydraulically upgradient (well cluster #2) and all downgradient perimeter wells installed pursuant to the Revised Remedial Workplan, any well on a semi-annual or annual sampling schedule that has yielded four consecutive years of sampling resulting in contaminant concentration detections below Maximum Contaminant Levels (MCLs) established by the U.S. EPA Office of Water, as determined by the Student T test, as specified by 40 C.F.R. Section 264.97, may be

removed from the monitoring program. Monitoring of upgradient and downgradient perimeter wells shall continue until these and all recovery wells have yielded two (2) consecutive semi-annual samples below MCLs in existence as of the effective date of this Modification. At that time, Respondent shall notify EPA in writing of its intent to discontinue groundwater extraction. For the next year, Respondent shall sample each of the recovery and monitoring wells quarterly and analyze for volatile organics (EPA Method 8240/8010). In the event that these analyses demonstrate that groundwater from these wells continues to demonstrate contaminant levels below MCLs, on-site groundwater remediation may be permanently discontinued. However, in the event that these analyses demonstrate that the groundwater from any well(s) exceeds MCLs, the groundwater extraction and semi-annual monitoring of all wells shall resume."

Order, Section I, Work To Be Performed, Paragraph 3, in the first sentence insert after "Upon completion of all the work outlined in the Remedial Action Plan," the following: "and the modifications to this work as outlined in the Revised Remedial Work Plan dated January 27, 1994."

Section II, Bi-Monthly Reports and Submittals, Paragraph 1, delete the first three sentences and substitute in lieu thereof the following: "Respondent shall at a minimum provide EPA with bi-monthly progress reports, signed by its Project Coordinator, until the activities specified by the Revised Remedial Work Plan

have been completed. Respondent shall submit quarterly reports for the first year thereafter and then shall submit semi-annual reports until EPA has issued a notice of Termination and Satisfaction pursuant to Section XV of this Order. The reports called for by this Section shall be submitted by the first day of the month in which they are due and shall contain the following information: . . ." (the remaining portion of this sentence, characterized a. through g. remains unchanged).

Section II, Bi-Monthly Reports and Submittals, Paragraph 2, replace the word "Five" at the beginning of the third sentence with the word "Four".

Section II, Bi-Monthly Reports and Submittals, Paragraph 4, add the following phrase to the beginning of the first sentence:

"Except as otherwise specified in this Order or in the Revised Remedial Work Plan dated January 27, 1994," . . .

Section II, Bi-Monthly Reports and Submittals, add Paragraph 5, as follows:

"5. By March 1 of each year, Hussmann Corporation shall submit to the Missouri Department of Natural Resources (MDNR) and to EPA a comprehensive written Annual Report summarizing all corrective actions undertaken under the Consent Order during the previous calendar year, including: information required under 40 C.F.R. § 265.94(b), work completed, tasks scheduled for the next year, operation and maintenance of the groundwater monitoring

system, narrative summary of the efficacy of the system for its intended purpose, assessment monitoring, all data generated along with interpretation for such data, problems encountered, and a summary of the effectiveness of corrective actions taken. As a part of the Annual Report, Respondent will also provide a schedule for submission of deliverables for the next calendar year."

Section III, Statement of Purpose, replace the paragraph in the Consent Order with the following:

"In entering into this Order, the mutual objectives of the parties are to conduct a remedial action plan to determine fully the nature and extent of any on-site release of hazardous waste and hazardous waste constituents at the Facility and to implement corrective measures which address any such on-site release of hazardous waste or hazardous waste constituents and are protective of human health and the environment."

Section VIII, Stipulated Penalties, Paragraph 2, add the following item after the phrase "Implementation of Remedial Measures in Section I of Remedial Action Plan":

"Implementation of work required to be performed by Respondent as a part of the Revised Remedial Work Plan dated January 27, 1994 in accordance with the schedule contained therein."

Section VIII, Stipulated Penalties, Paragraph 3, insert the following item after the phrase "Remedial Investigation Report":

"Site Characterization Report described in the Revised Remedial Work Plan dated January 27, 1994."

Section VIII, Stipulated Penalties, Paragraph 4, insert the following item between "Submission of Bi-Monthly Progress Reports" and the phrase "Pursuant to Section II of this Order":
"and All Other Reports, including the Annual Report".

Section XII, Other Claims and Reservations of Rights, replace Paragraph 2 with the following:

"EPA reserves its rights to take any enforcement action pursuant to RCRA, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq. (1980), as amended by the Superfund Amendments and Reauthorization Act of 1986 (hereinafter "CERCLA"), or other available legal authority; to expend and recover funds under CERCLA; to assess penalties for violations of and require compliance with RCRA; and to bring actions against non-parties, if appropriate.

Section XII, Other Claims and Reservations of Rights, replace Paragraph 3 with the following:

"EPA expressly reserves all rights and defenses that it may have, including the right to disapprove of work performed by Respondent that is not in accordance with the terms of this Order, provided, however, that satisfaction by Respondent of the

provisions of this Order and any modification hereof, as evidenced by the notice of termination and satisfaction issued by EPA pursuant to Section XV, below, shall be deemed to satisfy all corrective action measures that are required or sought by EPA pursuant to Sections 3004, 3005, and 3008(h) of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984, with respect to on-site releases from the solid waste management units covered by this Order except to the extent that: 1) information not in the possession of EPA at the time of the execution hereof or 2) conditions currently unknown to EPA indicate to EPA that such conditions require the imposition of such additional corrective action."

Section XIX, Effective Date, add Paragraph 3 as follows:

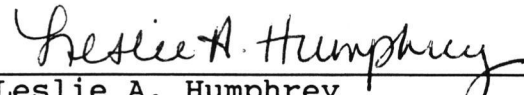
"The effective date of this Modification of Corrective Action Order on Consent shall be the date upon which Respondent receives a fully executed copy hereof."

IN WITNESS THEREOF, the parties have affixed their signatures below:

June 7, 1994
Date



Hussmann Corporation

June 13, 1994
Date


Leslie A. Humphrey
Associate Regional Counsel
U.S. EPA
Region VII

IT IS SO ORDERED.

June 14, 1994
Date


Michael J. Sanderson
Acting Director
Waste Management Division
U.S. EPA
Region VII

Humphrey

ORDER BY AGREEMENT

WHEREAS the Missouri Department of Natural Resources (MDNR) and the Hussmann Corporation (Hussmann) have discussed MDNR's concerns under the Resource Conservation and Recovery Act (RCRA) and the Missouri Hazardous Waste Management law related to closure and corrective action activities by Hussmann at the Seco Products facility in Washington, Missouri; and

WHEREAS MDNR has likewise discussed those same issues with the U.S. Environmental Protection Agency, Region VII (EPA); and

WHEREAS MDNR has reviewed both the Corrective Action Order on Consent entered on May 25, 1989, between EPA and Hussmann and the proposed modification thereto and accompanying workplan affecting said facility;

THEREFORE, Hussmann and MDNR agree as follows:

1. That when executed and entered, Hussmann will carry out its obligations under the Modified Order; and
2. MDNR will deem Hussmann's submission of the Site Characterization Report required by Section I, Paragraph II of the 1989 Consent Order as Modified as satisfying all applicable regulatory requirements, the enforcement of which has been delegated to MDNR under RCRA, relating to any and all covered solid waste management units at the above-named facility.
3. Upon submission by Hussmann of the Site Characterization Report, MDNR will declare returned to compliance all outstanding Notices of Violations issued heretofore with respect to alleged violations of MDNR regulations at any and all covered solid waste management units at the above-named facility; and

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4. That MDNR reserves all rights available to it under the laws of the State of Missouri to institute proceedings against Hussmann, including proceeding under the outstanding Notices of Violation or issuing new Notices of Violation, if Hussmann fails to perform satisfactorily its obligations under the 1989 Consent Order as Modified.

5. MDNR and Hussmann agree that this Order by Agreement applies only to the matters covered herein and in the 1989 Consent Order as Modified and that MDNR and Hussmann retain all rights not so covered.

6. That the signatories hereto have full authority to execute this Order By Agreement.

6/7/94
Date

HUSSMANN CORPORATION

By: Burton Halpern
Burton Halpern
Vice President

7/29/94
Date

John A. Young
John A. Young, Director
Missouri Department of
Natural Resources

Jeremiah W. ("Jay") Nixon
Attorney General

July 27, 1994
Date

Mully A. Kook
By: Assistant Attorney General

sumphrey

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6/7/94
Date

HUSSMANN CORPORATION

By: Burton Halpern
Burton Halpern
Vice President

7/29/94
Date

John A. Young
John A. Young, Director
Missouri Department of
Natural Resources

Jeremiah W. ("Jay") Nixon
Attorney General

July 27, 1994
Date

Shelly A. Woods
By: Assistant Attorney General